

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MERCY L. REYES,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner,
Social Security Administration,

Defendant.

Case No.: C 05-1828 PVT

**ORDER RE PARTIES' PROPOSED
STIPULATION AND ORDER**

On May 18, 2007, the parties filed a stipulation and proposed order in which they request that Plaintiff's motion for attorneys fees be submitted without oral argument, or in the alternative that the hearing on the motion be postponed until June 26, 2007. Based on the stipulation and the file herein,

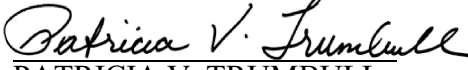
IT IS HEREBY ORDERED that the hearing on Plaintiff's motion for attorneys fees and costs is CONTINUED to June 26, 2007.

Plaintiff's counsel asserts in a footnote that "the matter should not have been placed on the calendar."¹ The court placed this matter on calendar as a courtesy to Plaintiff, who failed to properly

¹ Plaintiff's counsel also indicates that he has made several attempts to determine from the court whether or not oral argument is necessary. The court notes that there is no record of any previous document filed by Plaintiff regarding whether oral argument is necessary. *Ex parte* telephone calls to chambers are not an appropriate way for counsel to try to ascertain what actions the court does or does not intend to take. The court has not yet reviewed the motion papers, and thus has not yet determined whether or not it will dispense with oral argument. The court will make that determination and inform the parties in due course.

1 notice the motion under Civil Local Rule 7-2. Contrary to Plaintiff's assertion, nothing in the
2 Procedural Order for Social Security Cases filed herein ("Procedural Order") relieved Plaintiff of the
3 requirements of Local Rule 7-2. The briefing schedule in the Procedural Order expressly applies
4 only to motions for *summary judgment*. Thus, absent placement of the motion on calendar,
5 Plaintiff's filing of the motion for fees and costs triggered no obligation on the part of Defendant to
6 file any opposition to the motion, nor for the court to review it.

7 Dated: 5/18/07

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10 PATRICIA V. TRUMBULL
11 United States Magistrate Judge
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